

By the Committee on Transportation; and Senator Baker

596-05809-08

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1 A bill to be entitled

2 An act relating to transportation; amending s. 337.0261,
3 F.S.; providing definitions; providing legislative
4 findings with respect to the need for construction
5 aggregate materials; requiring a super majority vote by
6 the local government decisionmaking body in order to deny
7 approval of a construction aggregate materials mining
8 site; providing for a final determination to be made by
9 the Governor and Cabinet sitting as the Administration
10 Commission if the local government does not approve or
11 deny an application for construction aggregate materials
12 mining activities after two meetings or 3 months;
13 requiring that the Administration Commission determine
14 whether the evidence supports approval; applying
15 provisions of the Uniform Rules of Procedure to the
16 proceedings; providing that the act does not limit
17 challenges to or appeals of construction aggregate
18 materials mining site approvals; providing an effective
19 date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsections (1), (2), and (3) of section
24 337.0261, Florida Statutes, are amended to read:

25 337.0261 Construction aggregate materials.--

26 (1) DEFINITIONS.--As used in this section, the term:

27 (a) "Aggregate resource county" means a county within which
28 sand and aggregate resources exist as enumerated in the Strategic
29 Aggregates Review Task Force Final Report dated February 1, 2008.

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30 (b) "Application for construction aggregate materials
31 mining site approval" includes any application submitted to a
32 local government within an aggregate resource county for approval
33 in connection with construction materials mining activities,
34 including, but not limited to, applications for conditional use
35 permits, variances, special exceptions, unusual uses, rezonings,
36 and any other changes in land use designation, without regard for
37 the manner in which such application is processed.

38 (c) "Construction aggregate materials" means crushed stone,
39 limestone, dolomite, limerock, shell rock, cemented coquina, sand
40 for use as a component of mortars, concrete, bituminous mixtures,
41 or underdrain filters, and other mined resources providing the
42 basic material for concrete, asphalt, and road base.

43 (d) "Construction materials mining activities" has the same
44 meaning as provided in s. 552.30(1).

45 (e) "Local government" and "local government decisionmaking
46 body" refers to all agencies, boards, commissions, councils,
47 panels, trusts, or other bodies of individuals associated with or
48 established by local governmental entities which have final
49 authority to consider and approve applications, regardless of
50 whether such consideration constitutes an initial review of the
51 application or part of an administrative appellate process
52 afforded by the local governmental entity.

53 (f) "State approvals for construction materials mining
54 activities" means, to the extent legally required, an
55 environmental resource permit and industrial waste permit issued
56 by the Department of Environmental Protection.

57 (2) LEGISLATIVE INTENT.--The Legislature finds that:

58 (a) There is a strategic and critical need for an available

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59 supply of construction aggregate materials within the state and
60 that a disruption of the supply would cause a significant
61 detriment to the state's construction industry, transportation
62 system, and overall health, safety, and welfare.

63 (b) Construction aggregate materials are a finite natural
64 resource.

65 (c) Construction aggregate materials mining is an industry
66 of critical importance to the state and is therefore in the
67 public interest.

68 (d) There is a need for a reliable, predictable, and
69 sustainable supply of construction aggregate materials so that
70 public and private construction is maintained without
71 interruption.

72 (e) There are a limited number of aggregate resource
73 counties within the state where aggregate and sand resources
74 exist.

75 (3) LOCAL GOVERNMENT DECISIONMAKING.--

76 (a) When making application for construction aggregate
77 materials mining site approval, the applicant shall
78 simultaneously submit the application for an environmental
79 resource permit under s. 373.414 to the Department of
80 Environmental Protection and to the local government having
81 jurisdiction over the property that is subject to the
82 application.

83 (b) A ~~No~~ local government may not ~~shall~~ approve or deny a
84 proposed land use zoning change, comprehensive plan amendment,
85 land use permit, ordinance, or order regarding construction
86 aggregate materials without considering any information provided
87 by the Department of Transportation regarding the effect such

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88 change, amendment, permit decision, ordinance, or order would
89 have on the availability, transportation, and potential
90 extraction of construction aggregate materials on the local area,
91 the region, and the state. The failure of the Department of
92 Transportation to provide this information shall not be a basis
93 for delay or invalidation of the local government action. A ~~No~~
94 local government may not impose a moratorium, or combination of
95 moratoria, of more than 12 months' duration on the mining or
96 extraction of construction aggregate materials, commencing on the
97 date the vote was taken to impose the moratorium. January 1,
98 2007, shall serve as the commencement of the 12-month period for
99 moratoria already in place as of July 1, 2007.

100 (c) If an applicant has obtained state approvals for
101 construction materials mining activities within an aggregate
102 resource county, the local government decisionmaking body may
103 deny the application for such activities only pursuant to a super
104 majority vote consisting of a majority plus one of all members of
105 the local government decisionmaking body. Subject to local quorum
106 requirements, a local government decisionmaking body may approve
107 an application for construction materials mining activities by a
108 simple majority vote.

109 (d) If an application for construction aggregate materials
110 mining site approval is not approved or denied after
111 consideration of the application at two regularly scheduled
112 meetings of the local government decisionmaking body or after 3
113 months following the application's initial consideration by the
114 local government decisionmaking body, whichever occurs first, the
115 applicant may seek a final determination on the application by
116 the Governor and Cabinet sitting as the Administration

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117 Commission. An applicant may invoke this review by filing a
118 petition with the Administration Commission within 30 days after
119 the date of the last local government hearing at which the
120 application was considered or scheduled to be heard, whichever
121 occurs latest.

122 (e) The Administration Commission shall review the
123 application based solely upon the record of proceedings before
124 the local government and shall decide by a simple majority vote
125 whether there was competent, substantial evidence in the record
126 to support approval of the application. It shall thereafter enter
127 an order setting forth its decision and, by copy of its order,
128 notify the clerk of the local government and the applicant.

129 (f) The applicable provisions of the Uniform Rules of
130 Procedure promulgated in chapter 28, Florida Administrative Code,
131 shall govern the proceedings before the Administration
132 Commission.

133 (g) Judicial review of the commission's decision shall be
134 pursuant to s. 120.68.

135 (h) This subsection does not limit, eliminate, or otherwise
136 affect existing legal remedies to challenge or appeal a final
137 decision of a local government decisionmaking body concerning an
138 application for construction aggregate materials mining site
139 approval.

140 Section 2. This act shall take effect July 1, 2008.